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FILED
DISTRICT COURT OF GUAM
SEP 15 2005
MARY L.M. MORAN
CLERK OF COURT

IN THE UNITED STATES
DISTRICT COURT OF GUAM

CESS NAVARRO OLMO, RONNIE
PASCUAL FERRERAS,

PLAINTIFFS,

-VS-

A.P. GREEN INDUSTRIES, INC., et. al.,

DEFENDANTS.

CIVIL CASE NO. 05-00025

**DEFENDANT OWENS-
ILLINOIS, INC.'S ANSWER TO
PLAINTIFFS' FIRST AMENDED
COMPLAINT**

COMES NOW the defendant OWENS-ILLINOIS, INC. (hereinafter "defendant"), and, severing itself from all other defendants whatsoever, for itself alone and for no other, in answer to plaintiffs' complaint on file herein, admits, denies, and alleges, as follows:

OWENS-ILLINOIS, INC. is not specifically aware of the conduct of other defendants in this litigation. Therefore, all denials contained in this Answer of allegations relating to the conduct of said other defendants are deemed to be made on information and belief.

ANSWER TO COMPLAINT

1. Answering paragraph 1, defendant has no information or belief sufficient to enable it to answer the allegations contained therein, and placing its denial on that ground, denies generally and specifically each and every such allegation.

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2. Answering paragraph 2, defendant has no information or belief sufficient to enable it to answer the allegations contained therein, and placing its denial on that ground, denies generally and specifically each and every such allegation.

3. Answering paragraph 3, defendant admits that it is a corporation existing under the laws of Delaware. Except as so admitted, defendant has no information or belief sufficient to enable it to answer the allegations contained in paragraph 3 and, placing its denial on that ground, denies generally and specifically each and every allegation contained therein.

4. Answering paragraph 4, defendant has no information or belief sufficient to enable it to answer the allegations contained therein, and placing its denial on that ground, denies generally and specifically each and every such allegation.

5. Answering paragraph 5, defendant has no information or belief sufficient to enable it to answer the allegations contained therein, and placing its denial on that ground, denies generally and specifically each and every such allegation.

6. Answering paragraph 6, to the extent that the allegations therein may be directed against this defendant, defendant denies, generally and specifically, in the conjunctive as well as the disjunctive, each and every such allegation. Except as so denied, defendant has no information or belief sufficient to enable it to answer the allegations contained in paragraph 6 and, placing its denial on that ground, denies generally and specifically each and every allegation contained therein.

7. Answering paragraph 7, to the extent that the allegations therein may be directed against this defendant, defendant denies, generally and specifically, in the conjunctive as well as the disjunctive, each and every such allegation. Except as so denied, defendant has no information or

belief sufficient to enable it to answer the allegations contained in paragraph 7, and placing its denial on that ground, denies generally and specifically each and every such allegation contained therein.

8. Answering paragraph 8, to the extent that the allegations therein may be directed against this defendant, defendant denies, generally and specifically, in the conjunctive as well as the disjunctive, each and every such allegation. Except as so denied, defendant has no information or belief sufficient to enable it to answer the allegations contained in paragraph 8, and placing its denial on that ground, denies generally and specifically each and every such allegation contained therein.

9. Answering paragraph 9, defendant has no information or belief sufficient to enable it to answer the allegations contained in paragraph 9, and placing its denial on that ground, denies generally and specifically each and every such allegation contained therein.

10. Answering paragraph 10, defendant has no information or belief sufficient to enable it to answer the allegations contained in paragraph 10, and placing its denial on that ground, denies generally and specifically each and every such allegation contained therein.

11. Answering paragraph 11, defendant has no information or belief sufficient to enable it to answer the allegations contained in paragraph 11, and placing its denial on that ground, denies generally and specifically each and every such allegation contained therein.

12. Answering paragraph 12, defendant has no information or belief sufficient to enable it to answer the allegations contained in paragraph 12, and placing its denial on that ground, denies generally and specifically each and every such allegation contained therein.

13. Answering paragraph 13, defendant has no information or belief sufficient to enable it to answer the allegations contained in paragraph 13, and placing its denial on that ground, denies generally and specifically each and every such allegation contained therein.

14. Answering paragraph 14, defendant has no information or belief sufficient to enable it to answer the allegations contained in paragraph 14, and placing its denial on that ground, denies generally and specifically each and every such allegation contained therein.

15. Answering paragraph 15, to the extent that the allegations therein may be directed against this defendant, defendant denies, generally and specifically, in the conjunctive as well as the disjunctive, each and every such allegation. Defendant further denies that plaintiffs have been injured by this defendant in the manner alleged, in any manner, or at all. Except as so denied, defendant has no information or belief sufficient to enable it to answer the allegations contained in paragraph 15, and placing its denial on that ground, denies generally and specifically each and every such allegation contained therein.

16. Answering paragraph 16, to the extent that the allegations therein may be directed against this defendant, defendant denies, generally and specifically, in the conjunctive as well as the disjunctive, each and every such allegation. Defendant further denies that plaintiffs have been injured by this defendant in the manner alleged, in any manner, or at all. Except as so denied, defendant has no information or belief sufficient to enable it to answer the allegations contained in paragraph 16, and placing its denial on that ground, denies generally and specifically each and every such allegation contained therein.

17. Answering paragraph 17, to the extent that the allegations therein may be directed against this defendant, defendant denies, generally and specifically, in the conjunctive as well as the disjunctive, each and every such allegation. Defendant further denies that plaintiffs have been injured by this defendant in the manner alleged, in any manner, or at all. Except as so denied, defendant has no information or belief sufficient to enable it to answer the allegations contained in

paragraph 17, and placing its denial on that ground, denies generally and specifically each and every such allegation contained therein.

18. Answering paragraph 18, to the extent that the allegations therein may be directed against this defendant, defendant denies, generally and specifically, in the conjunctive as well as the disjunctive, each and every such allegation. Defendant further denies that plaintiffs have been injured by this defendant in the manner alleged, in any manner, or at all. Except as so denied, defendant has no information or belief sufficient to enable it to answer the allegations contained in paragraph 18, and placing its denial on that ground, denies generally and specifically each and every such allegation contained therein.

19. Defendant refers to and incorporates herein by reference each and every response to plaintiffs' paragraphs 1 through 18, inclusive, set forth in paragraphs 1 through 18 above, as though fully set forth herein.

20. Answering paragraph 20, to the extent that the allegations therein may be directed against this defendant, defendant denies, generally and specifically, in the conjunctive as well as the disjunctive, each and every such allegation. Except as so denied, defendant has no information or belief sufficient to enable it to answer the allegations contained in paragraph 20 and, placing its denial on that ground, denies generally and specifically each and every allegation contained therein.

21. Answering paragraph 21, to the extent that the allegations therein may be directed against this defendant, defendant denies, generally and specifically, in the conjunctive as well as the disjunctive, each and every such allegation. Except as so denied, defendant has no information or belief sufficient to enable it to answer the allegations contained in paragraph 21, and placing its

denial on that ground, denies generally and specifically each and every such allegation contained therein.

22. Answering paragraph 22, to the extent that the allegations therein may be directed against this defendant, defendant denies, generally and specifically, in the conjunctive as well as the disjunctive, each and every such allegation. Defendant further denies that plaintiffs have been injured by this defendant in the manner alleged, in any manner, or at all. Except as so denied, defendant has no information or belief sufficient to enable it to answer the allegations contained in paragraph 22, and placing its denial on that ground, denies generally and specifically each and every such allegation contained therein.

23. Answering paragraph 23, to the extent that the allegations therein may be directed against this defendant, defendant denies, generally and specifically, in the conjunctive as well as the disjunctive, each and every such allegation. Defendant further denies that plaintiffs have been injured by this defendant in the manner alleged, in any manner, or at all. Except as so denied, defendant has no information or belief sufficient to enable it to answer the allegations contained in paragraph 23, and placing its denial on that ground, denies generally and specifically each and every such allegation contained therein.

24. Answering paragraph 24, to the extent that the allegations therein may be directed against this defendant, defendant denies, generally and specifically, in the conjunctive as well as the disjunctive, each and every such allegation. Defendant further denies that plaintiffs have been injured by this defendant in the manner alleged, in any manner, or at all. Except as so denied, defendant has no information or belief sufficient to enable it to answer the allegations contained in

paragraph 24, and placing its denial on that ground, denies generally and specifically each and every such allegation contained therein.

25. Answering paragraph 25, to the extent that the allegations therein may be directed against this defendant, defendant denies, generally and specifically, in the conjunctive as well as the disjunctive, each and every such allegation. Defendant further denies that plaintiffs have been injured by this defendant in the manner alleged, in any manner, or at all. Except as so denied, defendant has no information or belief sufficient to enable it to answer the allegations contained in paragraph 25, and placing its denial on that ground, denies generally and specifically each and every such allegation contained therein.

26. Defendant refers to and incorporates herein by reference each and every response to plaintiffs' paragraphs 1 through 14, inclusive, set forth in paragraphs 1 through 14 above, as though fully set forth herein.

27. Answering paragraph 27, to the extent that the allegations therein may be directed against this defendant, defendant denies, generally and specifically, in the conjunctive as well as the disjunctive, each and every such allegation. Except as so denied, defendant has no information or belief sufficient to enable it to answer the allegations contained in paragraph 27, and placing its denial on that ground, denies generally and specifically each and every such allegation contained therein.

28. Answering paragraph 28, to the extent that the allegations therein may be directed against this defendant, defendant denies, generally and specifically, in the conjunctive as well as the disjunctive, each and every such allegation. Except as so denied, defendant has no information or belief sufficient to enable it to answer the allegations contained in paragraph 28, and placing its

denial on that ground, denies generally and specifically each and every such allegation contained therein.

29. Answering paragraph 29, to the extent that the allegations therein may be directed against this defendant, defendant denies, generally and specifically, in the conjunctive as well as the disjunctive, each and every such allegation. Defendant further denies that plaintiffs have been injured by this defendant in the manner alleged, in any manner, or at all. Except as so denied, defendant has no information or belief sufficient to enable it to answer the allegations contained in paragraph 29, and placing its denial on that ground, denies generally and specifically each and every such allegation contained therein.

30. Defendant refers to and incorporates herein by reference each and every response to plaintiffs' paragraphs 1 through 14, inclusive, set forth in paragraphs 1 through 14 above, as though fully set forth herein.

31. Answering paragraph 31, to the extent that the allegations therein may be directed against this defendant, defendant denies, generally and specifically, in the conjunctive as well as the disjunctive, each and every such allegation. Defendant further denies that plaintiffs have been injured by this defendant in the manner alleged, in any manner, or at all. Except as so denied, defendant has no information or belief sufficient to enable it to answer the allegations contained in paragraph 31, and placing its denial on that ground, denies generally and specifically each and every such allegation contained therein.

32. Answering paragraph 32, defendant has no information or belief sufficient to enable it to answer the allegations contained in paragraph 32, and placing its denial on that ground, denies generally and specifically each and every such allegation contained therein.

33. Answering paragraph 33, defendant has no information or belief sufficient to enable it to answer the allegations contained therein, and placing its denial on that ground, denies generally and specifically each and every such allegation.

34. Answering paragraph 34, defendant has no information or belief sufficient to enable it to answer the allegations contained therein, and placing its denial on that ground, denies generally and specifically each and every such allegation.

35. Answering paragraph 35, to the extent that the allegations therein may be directed against this defendant, defendant denies, generally and specifically, in the conjunctive as well as the disjunctive, each and every such allegation. Defendant further denies that plaintiffs have been injured by this defendant in the manner alleged, in any manner, or at all. Except as so denied, defendant has no information or belief sufficient to enable it to answer the allegations contained in paragraph 35, and placing its denial on that ground, denies generally and specifically each and every such allegation contained therein.

36. Answering paragraph 36, to the extent that the allegations therein may be directed against this defendant, defendant denies, generally and specifically, in the conjunctive as well as the disjunctive, each and every such allegation. Defendant further denies that plaintiffs have been injured by this defendant in the manner alleged, in any manner, or at all. Except as so denied, defendant has no information or belief sufficient to enable it to answer the allegations contained in paragraph 36, and placing its denial on that ground, denies generally and specifically each and every such allegation contained therein.

37. Defendant refers to and incorporates herein by reference each and every response to plaintiffs' paragraphs 1 through 14, inclusive, set forth in paragraphs 1 through 14 above, as though fully set forth herein.

38. Answering paragraph 38, to the extent that the allegations therein may be directed against this defendant, defendant denies, generally and specifically, in the conjunctive as well as the disjunctive, each and every such allegation. Defendant further denies that plaintiffs have been injured by this defendant in the manner alleged, in any manner, or at all. Except as so denied, defendant has no information or belief sufficient to enable it to answer the allegations contained in paragraph 38, and placing its denial on that ground, denies generally and specifically each and every such allegation contained therein.

39. Answering paragraph 39, to the extent that the allegations therein may be directed against this defendant, defendant denies, generally and specifically, in the conjunctive as well as the disjunctive, each and every such allegation. Defendant further denies that plaintiffs have been injured by this defendant in the manner alleged, in any manner, or at all. Except as so denied, defendant has no information or belief sufficient to enable it to answer the allegations contained in paragraph 39, and placing its denial on that ground, denies generally and specifically each and every such allegation contained therein.

40. Answering paragraph 40, to the extent that the allegations therein may be directed against this defendant, defendant denies, generally and specifically, in the conjunctive as well as the disjunctive, each and every such allegation. Except as so denied, defendant has no information or belief sufficient to enable it to answer the allegations contained in paragraph 40, and placing its

denial on that ground, denies generally and specifically each and every such allegation contained therein.

41. Answering paragraph 41, to the extent that the allegations therein may be directed against this defendant, defendant denies, generally and specifically, in the conjunctive as well as the disjunctive, each and every such allegation. Defendant further denies that plaintiffs have been injured by this defendant in the manner alleged, in any manner, or at all. Except as so denied, defendant has no information or belief sufficient to enable it to answer the allegations contained in paragraph 41, and placing its denial on that ground, denies generally and specifically each and every such allegation contained therein.

42. Defendant refers to and incorporates herein by reference each and every response to plaintiffs' paragraphs 1 through 14, inclusive, set forth in paragraphs 1 through 14 above, as though fully set forth herein.

43. Answering paragraph 43, to the extent that the allegations therein may be directed against this defendant, defendant denies, generally and specifically, in the conjunctive as well as the disjunctive, each and every such allegation. Defendant further denies that plaintiffs have been injured by this defendant in the manner alleged, in any manner, or at all. Except as so denied, defendant has no information or belief sufficient to enable it to answer the allegations contained in paragraph 43, and placing its denial on that ground, denies generally and specifically each and every such allegation contained therein.

44. Defendant refers to and incorporates herein by reference each and every response to plaintiffs' paragraphs 1 through 14, inclusive, set forth in paragraphs 1 through 14 above, as though fully set forth herein.

45. Answering paragraph 45, to the extent that the allegations therein may be directed against this defendant, defendant denies, generally and specifically, in the conjunctive as well as the disjunctive, each and every such allegation. Except as so denied, defendant has no information or belief sufficient to enable it to answer the allegations contained in paragraph 45, and placing its denial on that ground, denies generally and specifically each and every such allegation contained therein.

46. Answering paragraph 46, to the extent that the allegations therein may be directed against this defendant, defendant denies, generally and specifically, in the conjunctive as well as the disjunctive, each and every such allegation. Except as so denied, defendant has no information or belief sufficient to enable it to answer the allegations contained in paragraph 46, and placing its denial on that ground, denies generally and specifically each and every such allegation contained therein.

47. Answering paragraph 47, to the extent that the allegations therein may be directed against this defendant, defendant denies, generally and specifically, in the conjunctive as well as the disjunctive, each and every such allegation. Except as so denied, defendant has no information or belief sufficient to enable it to answer the allegations contained in paragraph 47, and placing its denial on that ground, denies generally and specifically each and every such allegation contained therein.

48. Answering paragraph 48, to the extent that the allegations therein may be directed against this defendant, defendant denies, generally and specifically, in the conjunctive as well as the disjunctive, each and every such allegation. Defendant further denies that plaintiffs have been injured by this defendant in the manner alleged, in any manner, or at all. Except as so denied,

defendant has no information or belief sufficient to enable it to answer the allegations contained in paragraph 48, and placing its denial on that ground, denies generally and specifically each and every such allegation contained therein.

49. Defendant refers to and incorporates herein by reference each and every response to plaintiffs' paragraphs 1 through 14, inclusive, set forth in paragraphs 1 through 14 above, as though fully set forth herein.

50. Answering paragraph 50, to the extent that the allegations therein may be directed against this defendant, defendant denies, generally and specifically, in the conjunctive as well as the disjunctive, each and every such allegation. Except as so denied, defendant has no information or belief sufficient to enable it to answer the allegations contained in paragraph 50, and placing its denial on that ground, denies generally and specifically each and every such allegation contained therein.

51. Answering paragraph 51, to the extent that the allegations therein may be directed against this defendant, defendant denies, generally and specifically, in the conjunctive as well as the disjunctive, each and every such allegation. Defendant further denies that plaintiffs have been injured by this defendant in the manner alleged, in any manner, or at all. Except as so denied, defendant has no information or belief sufficient to enable it to answer the allegations contained in paragraph 51, and placing its denial on that ground, denies generally and specifically each and every such allegation contained therein.

52. Answering paragraph 52, to the extent that the allegations therein may be directed against this defendant, defendant denies, generally and specifically, in the conjunctive as well as the disjunctive, each and every such allegation. Defendant further denies that plaintiffs have been

injured by this defendant in the manner alleged, in any manner, or at all. Except as so denied, defendant has no information or belief sufficient to enable it to answer the allegations contained in paragraph 52, and placing its denial on that ground, denies generally and specifically each and every such allegation contained therein.

53. Defendant denies each and every allegation not specifically admitted herein.

FIRST AFFIRMATIVE DEFENSE

Defendant has not been properly named or properly served with the summons and complaint in this action.

SECOND AFFIRMATIVE DEFENSE

Plaintiffs unreasonably delayed in bringing this action and have thereby prejudiced the rights of defendant. This action is therefore barred by laches.

THIRD AFFIRMATIVE DEFENSE

Plaintiffs have waived any and all claims which plaintiffs seek to assert in this action, and/or are estopped to assert or recover upon the same.

FOURTH AFFIRMATIVE DEFENSE

The complaint and each purported cause of action thereof fail to state facts sufficient to constitute a cause of action against defendant.

FIFTH AFFIRMATIVE DEFENSE

Any injury, damage or loss allegedly sustained by plaintiffs was proximately caused by or contributed to by plaintiffs' own carelessness and negligence.

SIXTH AFFIRMATIVE DEFENSE

Any injury, damage or loss allegedly sustained by plaintiffs was proximately caused by plaintiffs' voluntary assumption of risks of which plaintiffs knew or reasonably should have known.

SEVENTH AFFIRMATIVE DEFENSE

Any injury, damage or loss allegedly sustained by plaintiffs was proximately caused by the unintended, unexpected, unreasonable, improper or abnormal uses of defendant's products.

EIGHTH AFFIRMATIVE DEFENSE

Plaintiffs' employers, and others, knew or should have known of the risks alleged and were negligent, careless, willful and wanton in, among other things, failing to warn plaintiffs of any alleged risks; failing to provide plaintiffs with proper training, clothing and equipment; failing to provide plaintiffs with a safe work environment; and in misusing defendant's products. Such intervening and superseding conduct was the proximate cause of any injury, damage or loss alleged herein.

NINTH AFFIRMATIVE DEFENSE

The carelessness and negligence of plaintiffs' employers, and their agents, servants and employees, bars recovery against defendant of any and all sums paid, or to be paid, to or on behalf of plaintiffs by plaintiffs and/or plaintiffs' employers or by way of workers' compensation benefits.

TENTH AFFIRMATIVE DEFENSE

Any exposure of plaintiffs to defendant's products was so minimal as to be insufficient to establish to a reasonable degree of probability that any such product caused any injury, damage or loss alleged herein.

ELEVENTH AFFIRMATIVE DEFENSE

As between plaintiffs and this defendant, the law applicable to this action is the law as it existed during the period this defendant engaged, if at all, in the manufacture, sale or distribution of any asbestos-containing product to which the exposure is alleged. It is unlawful, inequitable, and in violation of defendant's contractual, statutory, and constitutional rights to apply principles of law other than or in a manner different from those which existed for the period in which defendant manufactured, sold or distributed, if at all, any product to which exposure is alleged.

TWELFTH AFFIRMATIVE DEFENSE

Plaintiffs were not in privity with defendant and may not rely upon the theory of any alleged breach of any alleged express or implied warranty.

THIRTEENTH AFFIRMATIVE DEFENSE

Plaintiffs did not give timely and proper notice to defendant of any alleged breach of warranty.

FOURTEENTH AFFIRMATIVE DEFENSE

Plaintiffs' employers were reasonably and adequately warned of any alleged risk, or otherwise had actual, constructive or imputed knowledge thereof.

FIFTEENTH AFFIRMATIVE DEFENSE

The state of the medical, scientific and industrial knowledge and practice was at all material times such that defendant neither breached any alleged duty owed plaintiffs, nor knew, nor could have known, that its product presented a foreseeable risk of harm to plaintiffs in the normal and expected use of such product.

SIXTEENTH AFFIRMATIVE DEFENSE

Any product in question was manufactured in conformity with specifications established by the United States government, or others. Any alleged defect in such product was the result of deficiencies in such specifications, which were unknown to defendant. Such deficiencies were the intervening, superseding and proximate cause of any injury, loss or damage alleged herein.

SEVENTEENTH AFFIRMATIVE DEFENSE

Any product in question was manufactured in conformity with the specifications established by the United States government pursuant to its war powers, as a result of which this action is barred.

EIGHTEENTH AFFIRMATIVE DEFENSE

This action is barred by the applicable statutes of limitation and/or statutes of repose of Guam or any other applicable jurisdiction.

NINETEENTH AFFIRMATIVE DEFENSE

Defendants whose presence is indispensable pursuant to the terms of Federal Rule of Civil Procedure 19(a) and (b) cannot effectively be made parties to this action because of the filing by them of petitions in Federal Bankruptcy Court, and the action should therefore not proceed as to the remaining defendants.

TWENTIETH AFFIRMATIVE DEFENSE

On information and belief, any product in question was, without defendant's knowledge or approval, redesigned, modified, altered or subjected to other treatment which substantially changed its character. If there was a defect in any such product, which is specifically denied, such defect resulted solely from the redesign, modification, alteration, treatment, or other change therein and not from any act or omission of defendant; and said defect, if any, was created by plaintiffs or others that

defendant neither controlled nor had the right to control, and was the sole and proximate cause of any injury, damage or loss alleged herein.

TWENTY-FIRST AFFIRMATIVE DEFENSE

The loss, injury, or damage, if any, incurred by plaintiffs was the result of superseding intervening causes arising from negligent or willful acts or omissions by parties that defendant neither controlled nor had the right to control and were not proximately caused by any act, omission, or other conduct of defendant.

TWENTY-SECOND AFFIRMATIVE DEFENSE

Recovery herein, if any, is barred or reduced because plaintiffs failed to mitigate damages, if any, in that plaintiffs failed to use reasonable diligence in the care of injuries, if any, reasonable efforts to prevent their aggravation, and reasonable efforts to treat them.

TWENTY-THIRD AFFIRMATIVE DEFENSE

Plaintiffs' claim for punitive damages is barred by the Due Process clause of the Fourteenth Amendment to the United States Constitution, and/or similar provisions of the Organic Act of Guam.

TWENTY-FOURTH AFFIRMATIVE DEFENSE

Plaintiffs' claim for punitive damages is barred by the proscription of the Eighth Amendment to the United States Constitution, as applied to the states and territories through the Fourteenth Amendment, prohibiting the imposition of excessive fines, and/or similar provisions of the Organic Act of Guam.

TWENTY-FIFTH AFFIRMATIVE DEFENSE

Plaintiffs' claim for punitive damages is barred by the Double Jeopardy clause of the Fifth Amendment to the United States Constitution as applied to the states and territories through the

Fourteenth Amendment to the United States Constitution, and/or similar provisions of the Organic Act of Guam.

TWENTY-SIXTH AFFIRMATIVE DEFENSE

Defendant Owens-Illinois further denies all allegations against it contained in cross-claims which have been or will be asserted against it in this matter now or in the future, and reserves the right to amend this answer and the claims asserted herein by way of adding additional parties, additional affirmative defenses, counter-claims, cross-claims, and third party claims, as additional investigation, discovery or circumstances may warrant.

TWENTY-SEVENTH AFFIRMATIVE DEFENSE

If liability is assessed in any respect, then the fault of all parties, joined and not joined, including the fault of plaintiffs, must be evaluated and liability apportioned among all persons and entities in accordance with their respective comparative fault.

TWENTY-EIGHTH AFFIRMATIVE DEFENSE

Defendant alleges that at all times relevant to matters alleged in the complaint, plaintiffs' employer was a sophisticated user of asbestos-containing products and the employer's negligence in providing the product to its employees in a negligent, careless and reckless manner is a superseding cause of plaintiffs' injuries.

TWENTY-NINTH AFFIRMATIVE DEFENSE

Plaintiffs' work all occurred on a government enclave.

WHEREFORE, defendant prays:

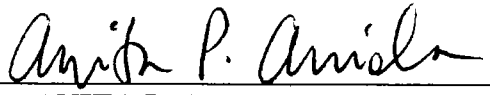
1. That plaintiffs take nothing by this complaint;
2. That defendant be awarded judgment in its favor and against plaintiffs;

3. That defendant recover its costs of suit herein; and
4. For such other and further relief as the Court deems just and proper.

DATED: September 15, 2005

Respectfully submitted,

ARRIOLA, COWAN & ARRIOLA

By 
ANITA P. ARRIOLA
Attorneys for Defendant Owens-illinois, Inc.

DEMAND FOR JURY TRIAL

Defendant demands trial by jury on all issues so triable.

ARRIOLA, COWAN & ARRIOLA, HAGATNA, GUAM 96910

CERTIFICATE OF SERVICE

I, HEREBY CERTIFY that a true and correct copy of the foregoing instrument was mailed, first-class, postage prepaid, on this 15th day of September, 2005, to the following:

**DEFENDANT OWENS-ILLINOIS, INC.'S ANSWER TO
PLAINTIFFS' FIRST AMENDED COMPLAINT**

Lujan, Unpingco, Aguigui & Perez, LLP Pacific News Building, Suite 300 238 Archbishop Flores Street Hagatna, Guam 96910	Benjamin B. Cassiday, III 5699 Kalaniana'ole Hwy. Honolulu, Hawaii 96821
Joseph E. Riley A.W. Chesterton Company 225 Fallon Road Stoneham, MA 02180	Corporation Trust Co. 1209 Orange Street Wilmington, DE 19801 re: Amchem Products, Inc.; Asbestos Claims Management Corporation, Babcock & Wilcox Company, Dow Chemical Company, Flintkote Company, Garlock, Inc., Georgia- Pacific Corporation, Harbison-Walker Refractories Co., Honeywell International, Inc., John Crane, Inc., Metropolitan Life Insurance Company, United States Gypsum Company
CT Corporation System 818 West Seventh Street Los Angeles, CA 90017 re: Flexitallic, Inc., Foster Wheeler Corporation, Kaiser Gypsum Company, Inc., Owens-Illinois, Inc., Inc.	CT Corporation System 111 Eighth Avenue New York, NY 10011 re: Quigley Company, Inc.
Prentice-Hall Corporation Systems, Inc. 2711 Centerville Road, Suite 400 Wilmington, DE 19801 re: GAF Corporation, Viacom, Inc.	Pittsburgh Corning Corporation 800 Presque Isle Drive Pittsburgh, PA 15239


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